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Subpart A—General Provisions and Administration

§ 268.101 Authority, purpose and scope.

(a) *Authority.* The regulations in this part (12 CFR part 268) are issued by the Board of Governors of the Federal Reserve System under the authority of sections 10(4) and 11(i), (k) and (l) of the Federal Reserve Act (partially codified in 12 U.S.C. 244 and 248(i), (k) and (l)).

(b) *Purpose and scope.* This part sets forth the Board's policy, program and procedures for providing equal opportunity to Board employees and applicants for employment without regard to race, color, religion, sex, national origin, age, or physical or mental disability. It also sets forth the Board's policy, program and procedures for prohibiting discrimination on the basis of physical or mental disability in programs and activities conducted by the Board. It also specifies the circumstances under which the Board will hire or decline to hire persons who are not citizens of the United States, consistent with the Board's operational needs, the requirements and prohibitions of the Immigration Reform and Control Act of 1986, as amended, and other applicable law.

§ 268.102 Definitions.

The definitions contained in this section shall have the following meanings throughout this part unless otherwise stated.

(a) *ADEA* means the Age Discrimination In Employment Act (29 U.S.C. 621 et seq.).

(b) *Agent of the class* means a class member who acts for the class during the processing of the class complaint under § 268.305 of this part.

(c) *Agreement of resolution* means the agreement referred to in § 268.305(f)(3) of this part.

(d) *Auxiliary aids* as used in subpart G of this part means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the

Board. For example, auxiliary aids useful for persons with impaired vision include readers, Braille materials, audio recordings, telecommunication devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, note takers, written materials, and other similar services and devices.

(e) *Board* means the Board of Governors of the Federal Reserve System.

(f) *Class* as used in § 268.305 of this part means a group of Board employees, former employees or applicants for employment who allegedly have been or are being adversely affected by a personnel policy or practice of the Board that discriminates against the group on the basis of their race, color, religion, sex, national origin, age or disability.

(g) *Class complaint* means a written complaint of discrimination filed on behalf of a class by the agent of the class alleging that:

(1) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(2) There are questions of fact common to the class;

(3) The claims of the agent of the class are typical of the claims of the class; and

(4) The agent of the class, or, if represented, the representative, will fairly and adequately protect the interests of the class.

(h) *Commission* means the Equal Employment Opportunity Commission.

(i) *Complainant* means an aggrieved person who files an individual complaint pursuant to § 268.205 of this part, except that *complainant* shall mean a complainant, agent of the class or individual class claimant for purposes of §§ 268.209, 268.402 through 268.406 and subparts E and F of this part.

(j) *Complete complaint* as used in subpart G of this part means a written statement that contains the complainant's name and address and describes the Board's alleged discriminatory actions in sufficient detail to inform the Board of the nature and date of the alleged violation. It shall be signed by

the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(k) *EEOC decision* means the written decision issued by the Commission's Office of Federal Operations as described in § 268.405 of this part.

(l) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

(m) *Final decision* means the Board's decision described in § 268.209 of this part.

(n) *Has a record of such an impairment* means has a history of, or has been classified (or misclassified) as having, a physical or mental impairment that substantially limits one or more major life activities.

(o) *Individual with a disability* means a person who:

(1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) Has a record of such an impairment; or

(3) Is regarded as having such an impairment; and

(4) Shall not include an individual, a Board employee or applicant for employment, impaired while under the influence of illegal drugs, an individual disabled by alcoholism, or an individual with an infectious or communicable disease, as further defined in § 268.303(g) of this part.

(p) *Investigator* means an investigative officer or complaint examiner selected or appointed pursuant to §§ 268.103(c)(11) and 268.305(e)(3) of this part.

(q) *Is regarded as having an impairment* means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Board as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in § 268.102(s) of this part, but is treated by the Board as having such an impairment.

(r) *Major life activities* means functions, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(s) *Physical or mental impairment* means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(t) *Qualified individual with a disability* means:

(1) With respect to a Board program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Board can determine on the basis of a written record would result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; or

(3) With respect to employment, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of the individual or others, and who meets the experience or education requirements (which may include passing a written test) of the position in question.

(u) *Title VII* means Title VII of the Civil Rights Act (42 U.S.C. 2000e *et seq.*).

§ 268.103 Equal employment designations.

(a) *Administrative Governor.* The Administrative Governor, a member of the Board of Governors designated by the Chairman of the Board, is charged with overseeing the internal affairs of the Board and is empowered to make decisions and determinations on behalf of the Board when authority to do so is delegated to him or her.

(1) The Administrative Governor is hereby delegated the authority to make determinations adjudicating complaints of discrimination pursuant to §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, unless a member of the Board of Governors has requested that the Board of Governors make the decision on the complaint pursuant to §§ 268.209(a) or 268.709(k) of this part, settlements pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part. The Administrative Governor is further delegated the authority to order such corrective measures, including such remedial actions as may be required by subpart E of this part, as he or she may consider necessary, including such disciplinary action as is warranted by the circumstances when an employee has been found to have engaged in a discriminatory practice.

(2) The Administrative Governor may delegate to any officer or employee of the Board any of his or her duties or functions under this part.

(3) The Administrative Governor may refer to the Board of Governors for determination or decision any complaint of discrimination that the Administrative Governor would otherwise decide pursuant to §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, settlements pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part, and may make changes in programs and procedures designed to eliminate discriminatory practices or to improve the Board's programs under this part, and may make any recommendation for remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibilities, or employees who have been found to have engaged in discriminatory practices, or with re-

gard to any other matter which the Administrative Governor believes merits the attention of the Board of Governors.

(b) *Staff Director for Management.* The Staff Director for Management shall perform the following functions under this part:

(1) When so authorized by the Administrative Governor, the Staff Director for Management shall make any determinations on complaints of discrimination that would otherwise be made by the Administrative Governor under §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, settlement pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part. The Staff Director for Management shall order such corrective measures, including such remedial actions as may be required by subpart E of this part as he or she may consider necessary, and including the recommendation for such disciplinary action as is warranted by the circumstances when an employee is found to have engaged in a discriminatory practice.

(2) The Staff Director for Management shall review the record on any complaint under this part before a determination is made by the Board of Governors or the Administrative Governor on the complaint and make such recommendations as to the determination as he or she considers desirable, including any recommendation for such disciplinary action as is warranted by the circumstances when an employee is found to have engaged in a discriminatory practice.

(3) When authorized by the Administrative Governor, the Staff Director for Management may make changes in programs and procedures designed to eliminate discriminatory practices and improve the Board's program for equal employment opportunity.

(c) *EEO Programs Director.* The EEO Programs Director is appointed by the Board of Governors and shall perform the following functions under this part:

(1) Administer the Board's equal employment opportunity program and advise the Board, the Administrative Governor and the Staff Director for